

May 9, 2000

The Salisbury Planning Board held its regular meeting on Tuesday, May 9, 2000, in the City Council Chambers of the Salisbury City Hall at 4:00 p.m. with the following being present and absent:

PRESENT: Andy Storey, Sean Reid, DeeDee Wright, Jeff Sowers, Jeff Smith, Mark Lewis, Elaine Stiller, Mark Perry, Fred Dula

ABSENT: John Daniels, Ken Mowery

STAFF: Harold Poole, Patrick Kennerly, Hubert Furr, Dan Mikkelson, Janice Hartis

The meeting was called to order by Chairman Lewis. The minutes of April 11, 2000, were approved as published.

ZONING MAP AMENDMENTS

Z-5-00 Shirley Everhart, Jake Alexander Blvd. West and Dan Street

Location: Southwest corner of Jake Alexander Boulevard West and Dan Street (1839 Jake Alexander Boulevard)

Size: Frontage along Jake Alexander Blvd. West for approximately 150 feet, frontage along Dan Street for approximately 187 feet, for a total of approximately 28,500 square feet.

Existing zoning: B-1 Office Institutional

Proposed zoning: B-RT Retail Trade Business

- (a) Chairman Lewis convened a courtesy hearing on Z-5-00.
(Jeff Smith was excused during discussion of this case due to a conflict of interest.)

Those speaking in favor of the zoning change request:

Shirley Everhart, petitioner. Has been trying to sell the property for a year and a half for office purposes with no success. Any interest in the property has been for small retail businesses which are not permitted in B-1.

Those speaking in opposition to the zoning change request:

John Henderlite, 3 North Road, co-owns property across the street. This area has been subjected to extensive studies. Feels that the area should have planned development rather than rezoning on a piecemeal basis. B-RT at this location would be inconsistent with good methodology. Some B-RT uses not suitable for this site, particularly with R-8 zoning on three sides.

Betty Russell, Dan Street. Has spoken against rezoning of this property several times. B-1 has enough permitted uses for this property. Property is surrounded by R-8 zoning, and B-RT would be inconsistent.

The chairman closed the courtesy hearing on this case.

(b) Board Discussion:

Mark Perry – Concerned that all the issues haven't been addressed and suggested sending the matter to a committee. He then moved to send it to a committee. The motion was seconded by DeeDee Wright with all members voting AYE except Messrs. Dula and Reid who voted NAY. The motion carried. The Chairman referred this matter to Committee 2 (Loeblein, Wright and Lewis).

Z-6S-00 Dennis N. Bunker III, Mahaley Avenue, West Innes Street and Lilly Avenue

Location: Ten parcels located along Mahaley Avenue, West Innes Street and Lilly Avenue

Size: Total area – approximately 3 acres

Existing zoning: Five parcels zoned R-8 Single Family Residential (approx. 1.3 acres)
Five parcels zoned B-RT Retail Trade Business (approx. 1.8 acres)

Proposed zoning: B-RT-S Special Retail Trade Business for all ten parcels

(a) Chairman Lewis convened a courtesy hearing on Z-6S-00.

Those speaking in favor of the zoning change request:

Dennis Bunker, the petitioner. Rezoning will preserve the residential character of the area. This plan will combat urban sprawl. This is a primary intersection with many people passing through. This corner is not a destination point which will bring in traffic. The proposed development will serve the existing neighborhood traffic and would contribute to safer traffic patterns. The vacant house at 117 Lilly Avenue has reached the end of its life process, and the lot can better be used as part of a buffer. Development of this intersection will provide a higher tax base, will improve pedestrian and vehicular traffic patterns, improve the appearance of the corner and the neighborhood, will combat urban sprawl, and will demolish the existing mobile home park.

Those speaking in opposition to the zoning change request:

Sam Post, 317 Lantz Avenue. Cited the vacant house and service station, both owned by the petitioner, which has been allowed to deteriorate. He's afraid this property will deteriorate as well.

Eddie Post, East Corriher Avenue. Petitioner lives in Charlotte, not in the city. He cited all the schools in the neighborhood.

John Meacham, speaking for Siu Wong, an adjacent property owner. Concerned that there will not be an adequate buffer to her property.

Al McCracken, owns adjacent property on Lilly Avenue. The existing restaurant dumpster is located close to his rental house and is concerned that the dumpster will be moved even closer to the house with this new proposed development.

Ruth Mead, Lilly Avenue. This corner needs something different than what is there now. Does not want trucks or dumpsters to have access from Lilly Avenue. Keep the integrity of the Lilly Avenue neighborhood.

Pauline McCracken – 20-foot wide buffers will not be sufficient

Ruth Young, Lilly Avenue – development will encroach into residential neighborhood.
Lori Green, Lilly Avenue – shouldn't reward someone for letting their property deteriorate.

Rose Post, Corriher Avenue – Planning Board should do the planning.

The chairman closed the courtesy hearing on this case.

(b) Board Discussion:

DeeDee Wright – Cited Salisbury 2000 Policies 11.2 and 5.10 as being applicable to this case. Agrees with neighborhood that the rezoning should be denied.

Mark Perry – Voted against Mr. Bunker's previous request and has not changed his mind since then. It is wrong to encroach on an established neighborhood. More residential neighborhoods are being used up, including three houses on Mahaley Avenue.

Andy Storey – Felt that a General Development "A" overlay would address several neighborhood concerns since this provides site plan review. This development is an effort to make the deteriorating property better.

Jeff Sowers – This is a neighborhood commercial development which would be convenient for the neighborhood and would solve some of the traffic problems. Cited Policy 5.4 which he felt addressed this situation.

Leigh Ann Loeblein – The landscape ordinance puts into effect buffers which will protect the neighborhood.

Jeff Smith – This is a wonderful neighborhood, but something needs to be done to the corner. Site plan review will provide protection.

Sean Reid – Wants to see a compromise and suggests it go to a committee.

Mark Lewis – Comments seem to fall into three categories: invading the neighborhood, site plan consideration and reputation of the developer and his family. This is a good area for infill development.

Elaine Stiller – The neighbors have asked that something be done with this corner.

Sean Reid moved to send the matter to a committee in the hopes of getting the developer and neighbors together to work out a compromise. The motion died due to lack of a second.

DeeDee Wright moved to recommend denying the request for B-RT-S. The motion was seconded by Sean Reid with Ms. Wright, Mr. Reid and Mark Perry voting AYE and Elaine Stiller, Leigh Ann Loeblein, Andy Storey, Jeff Sowers, Jeff Smith, Mark Lewis and Fred Dula voting NAY. The motion was denied.

Jeff Smith moved to recommend rezoning the property to B-RT with a GD-A General Development "A" overlay. The motion was seconded by Jeff Sowers with Jeff Smith, Jeff Sowers, Elaine Stiller, Leigh Ann Loeblein, Andy Storey, Mark Lewis and Fred Dula voting AYE and DeeDee Wright, Sean Reid and Mark Perry voting NAY. The motion carried.

ZONING TEXT AMENDMENT

A letter has been received from Douglas T. Paris, an attorney representing Mrs. Dorothy Dalton, asking for a zoning text amendment to allow fortune tellers as a permitted use in the B-6 district and to drop the "not in conjunction with a residence" requirement. Mrs. Dalton

erroneously was issued a business license to operate her business as a fortune teller/clairvoyant in her home which is located in a B-6 General Business district. Her business is not a permitted use in the B-6 district. Her business is a permitted use only in B-4 Highway Business, but not in conjunction with a residence.

Mr. Paris listed a number of permitted uses in the B-6 district that should be considered more offensive than a fortune teller. He also indicated that Mrs. Dalton has signed a year's lease for the combined residence and shop which she would not have done if she had not been issued the license.

Jake Alexander spoke in opposition to the request. This is not the type of use we need in the city. He presented a map showing all B-6 zoned areas where this use could locate. The use would be permitted along East Innes, parts of West Innes, North Main, South Main and Jake Alexander Boulevard. He stated this was not an appropriate use in other than a B-4 district.

On a motion by Jeff Sowers, seconded by Sean Reid, with all members voting AYE, the request for a zoning text amendment was denied.

SUBDIVISION

S-8-00 Kidsports, off U. S. 29 north of Rowan Mill Road

(Leigh Ann Loeblein was excused during discussion of this matter due to a conflict of interest.)

The Technical Review Committee has three comments for consideration: (1) The developer will extend Briarwood Avenue (unopened and undeveloped) approximately 150 feet to provide street frontage required by the Subdivision Ordinance. However, the Kidsport site will not utilize Briarwood Avenue for vehicular access. The city Street Division is prepared to upgrade 174 feet of the existing substandard street to meet current residential standards, and the TRC recommends that the developer's extension also meet current residential standards (meaning curb and guttering). However, the Subdivision Ordinance allows construction standards to be modified for extensions of existing, substandard streets. The developer requests that curb and gutter not be included in the street improvements. (2) Kidsports will obtain vehicular access to South main Street via a shared driveway with Gold's Gym. The subdivision plat must include an easement for access and utilities across the Gold's Gym property. (3) The plat title should be spelled consistently with other "Kidsports" submittals.

Terry Eller, adjacent property owner, does not want curb and guttering on Briarwood Avenue. Susan Pfannes, also an adjacent property owner, opposes curb and guttering. She is also concerned with the possibility of Briarwood being further extended and opened for commercial and business use. Mr. Eller also pointed out that his property line extends into Briarwood Avenue and that he has been maintaining this portion of the property. Following discussing, DeeDee Wright moved to approve the preliminary site plan, that the developer not be required to provide curb and gutter on the 150 feet he is providing, and to give the Planning Board chairman the authority to sign the plat once Mr. Eller's right-of-way question is resolved. The motion was seconded by Fred Dula with DeeDee Wright, Fred Dula, Jeff Sowers, Elaine Stiller and Mark Lewis voting AYE and Jeff Smith, Mark Perry and Sean Reid voting NAY. The motion carried.

GROUP DEVELOPMENT

G-6-00 Kidsports, 2324 South Main Street

(Leigh Ann Loeblein was excused during discussion of this case due to a conflict of interest.)

Robert E. Hales has submitted a site plan for the construction of a new building which will be a fitness complex for children. The Technical Review Committee recommends approval, noting the following conditions: (1) No permanent barriers will be allowed in the water booster main easement. This includes no fencing, trees or shrubs. (2) Only one ground sign allowed on the premises. A separate permit is required for the signs before installation. (3) A fire hydrant must be within three hundred feet of the proposed building. There shall be a new fire hydrant installed at the new driveway at the owner's expense.

On a motion by Sean Reid, seconded by DeeDee Wright, with all members voting AYE, the site plan was recommended for approval subject to the above items.

CITY COUNCIL REFERRAL

City Council referred to Planning Board a draft of an ordinance concerning the placement, construction and modification of wireless telecommunications facilities (cell towers). The chairman referred this matter to Committee 3 (Storey, Mowery, Stiller, Daniels).

COMMITTEE REPORTS

(a) Medical Services District

DeeDee Wright reported that the Medical Services Committee has developed guidelines and requirements for the new district and is recommending approval of the proposed new district. The committee report comes as a motion to recommend approval. The motion was seconded by Leigh Ann Loeblein with all members voting AYE. The following amendments to the Zoning Ordinance to create a new Medical Services District are recommended to City Council for their consideration:

1. Article V, Establishment of Use Districts, Section 5.01, Use Districts
 - A. Purpose of Use Districts, parts (1) General Use District and (2) Special Use District
 - B. Table of Use Districts
 - (1) listed under General Use as "MED"
 - (2) listed under Special Use as "MED-S"
 - C. Description of Use Districts:

"Medical Services District (MED). The Medical Services District (MED) is intended as a mutually exclusive, nonaccumulating zoning district to provide areas in appropriate locations for medical facilities, related to but generally less intense than hospital facilities as described in HS, with their related uses that are principally for medical purposes. The district is intended to lie in close proximity to Rowan Regional Medical Center or other existing or planned community medical facilities. In order to better serve the general public, uses such as doctor's offices,

medical supply stores, and pharmacies are encouraged to locate near these medical facilities. Uses which are non-medically related will generally not be allowed to complete for space in this zoning district. Given the relatively small amount of land suitable for such zoning, uses which predominate in other zoning districts (e.g., residences, general offices, non-medically related retail uses) are not allowed in this MED district.”

“Special Medical Services District (MED-S). This district is identical to the MED district, except that a Special Use Permit is required, which may allow one or more permitted uses that are permitted in the MED district. City Council may place additional provisions or restrictions on the Special Use Permit.”

2. Article VIII, Use Requirements by District
“Section 8.27 Medical Services District (MED)

Within the Medical Services District (MED) all of the uses as listed within this section shall be permitted and within the Special Medical Services District (MED-S) all of the uses as listed within this section may be permitted. However, each and every use of property is authorized under group development provisions of Section 12.06. No subsequent site development modifications or changes shall be made to any use so approved unless such use has been authorized under the group development process. Submittal and processing shall be the same as an original submittal.

The review process by the Planning Board and City Council shall provide for an opportunity for property owners, residents, and businesses of the area, the developers, and others to be heard by the Planning Board and City Council.

The provisions of Section 12.06, Group Development, specifically includes within the general review, comments and recommendation section the authority to determine and prescribe the number, location, type and means of ingress and egress for a specific use.

The Planning Board shall recommend and the City Council shall approve the location, width and type of physical buffering for each specific use from adjacent uses and/or property on each individual use, case by case, provided the requirements are equal to or exceed the minimum requirements set out for the Medical Services District (MED) and under Article X, Landscaping Regulations.

Within the Medical Services District (MED), the following uses shall be permitted:
Accessory structures, provided such shall be permitted only when set back at least 10 feet from any property line adjoining nonresidential zoning, at least 15 feet from any property line adjoining residential zoning, and at least 20 feet from any street right-of-way line; further, that they be permitted in a rear yard area only. [NR]

Accessory uses. [NR]

Automatic teller machines. [X]

Automobile parking lots or structures. [NR]

Dental clinics/offices. [R]

Drug stores, with no more than 5,000 square feet. [BB]

Emergency services. [L]

Health care services. [R]
Hospitals and regional medical services. [N]
Laboratories—medical, dental, optical, research, experimental and testing. [II]
Medical clinics/offices. [R]
Medically-related offices, services, and foundations. [R]
Medically-related retail. [BB]
Medical supply stores, provided that the establishment is used exclusively for the sale of medically-related supplies, such as prosthetics, respiratory therapy equipment, beds, walkers, wheelchairs, and other supplies for the elderly, impaired, and/or handicapped. [BB]
Opticians [R] and optical supply stores. [BB]
Pharmacies. [R]
Physical therapy. [R]
Training for nurses and other medical personnel. [HH]
Wellness centers. [R]”

“Section 8.28 Special Medical Services District (MED-S)
The same or fewer uses as in the MED district.”

3. Article IX, Signs – Section 9.05, Signs Permitted by District: add to item (7)
4. Article X, Landscaping – Section 10.04, Planting Yards: add to Level 3
5. Article XI, Area, Yard and Height Requirements – Section 11.01, Table of Requirements:
 - Minimum lot size: Area in sq. ft. – none
 - Sq. ft. per dwelling unit – none
 - Lot width in feet – none
 - Minimum yard requirements: front yard setback – 25 ft.
 - side yard setback – 10 ft. (aa)(bb)
 - rear yard setback – 20 ft. (aa)(bb)
 - Height limitation – 50 feet
 - (aa) See Section 12.34
 - (bb) See Section 12.35

6. Article XII, Exceptions and Modifications
“Section 12.34. Side and Rear Yard Setbacks Adjoining Residentially-Zoned Properties
in the MED District

 - (a) Side yard setback: 15 feet if height 30 feet or less; if height greater than 30 feet, one foot additional setback for every 2 feet additional height, with 50-foot height limitation.
 - (b) Rear yard setback: 30 feet if height 30 feet or less; if height greater than 30 feet, one foot additional setback for every one foot additional height, with 50-foot height limitation.”

- “Section 12.35. Side and Rear Yard Setbacks Adjoining the Hospital Services District in
the MED District

 - (a) Side yard setback: 5 feet
 - (b) Rear yard setback: 5 feet”

Mark Lewis commented that during the Salisbury 2020 committee discussions, parking for medical uses had been discussed and felt that the parking requirements should be increased for medical uses. There seems to be inadequate parking spaces at medical facilities to accommodate the staff as well as patients. He then asked that the Legislative Committee study this issue.

(b) Legislative Committee – Jeff Sowers reported for the committee. Under the present subdivision standards, sidewalks are not required for new subdivisions. The city does commit to participating in 30% of the cost of sidewalks when they are installed with NCDOT highway projects. Standard sidewalks are four feet wide on non-thoroughfares, five feet wide on thoroughfares. The committee is recommending five foot sidewalks along both sides of the street and that the sidewalk be placed on the property line to allow for larger planting strips for landscaping. If the subdivision is adjacent to any type of public street, sidewalks would be required on that side of the street to provide some connectivity for a more walkable community. Requirements will apply to the current phase of a subdivision and will be added to preliminary plats requesting extended approval. The committee did not make any recommendations on vertical curb and guttering. Mr. Sowers felt this should be looked at and should be required for all subdivisions with the exception of subdivisions already established.

Chairman Lewis felt that developers need to have an opportunity to come to a public hearing to express their opinions on these proposed requirements. He recommended setting up a public hearing for the next board meeting. DeeDee Wright moved to delay a vote on the committee's recommendation until appropriate people can be notified, an ad is placed in the newspaper concerning the proposed changes, and that a hearing be held at the next meeting before the issue is decided. The motion was seconded by Mark Perry with all members voting AYE.

(c) Z-3-00 Salisbury Planning Board, Mooresville Road (N. C. 150) and Second Street. Sean Reid reported for Committee 1. This is one of the areas zoned B-2 Retail Business which staff is recommending to eliminate. At last month's meeting the Board favorably recommended rezoning to R-6 a small portion of the property located behind a church. The remainder of the property, which now is used for the storage of equipment for sale and is enclosed by a chain-link fence, was referred to a committee to decide on rezoning the property to either M-1 Light Industrial or B-RT Retail Trade Business. Most of the area surrounding this property is zoned M-1. However, the committee felt that M-1 was a little bit too strong for this area. There was a real concern with the differences in permitted uses between B-RT and M-1 zoning. Therefore, the report is coming as a motion to favorably recommend that the remainder of the B-2 property be rezoned to B-RT. The motion was seconded by Jeff Sowers with all members voting AYE. Board member Ken Mowery was not able to be at today's meeting and faxed his comments. DeeDee Wright read his comments into the record.

(d) Rules of Procedure – Committee chair Elaine Stiller gave a status report on their recent meeting. Principally, the committee is discussing the issue of absenteeism at both board and committee meetings. Only the Planning Board and Tree Board do not have absentee policies in their Rules of Procedure. She asked for input from the board on their suggested policies.

- (e) Transportation Committee – Mark Lewis gave a status report on their recent meeting.

TEXT AMENDMENT – ELIMINATION OF B-2 RETAIL BUSINESS DISTRICT

Included in the agenda package was a list of B-2 permitted uses and what districts staff is recommending they go to once the B-2 district is eliminated. The uses should be moved to either the B-RT Retail Trade Business District or some other commercial district. Most of the uses can be transitioned to the B-RT district. There are some overriding concerns about three of the uses: ABC stores which are being recommended for the B-6 district; motels, motor hotels and hotels which are being recommended for the B-4 district; and fast food restaurants which are being recommended for the B-4 district. An issue which has come up a number of times has been the billiards or pool halls permitted use in the B-RT Retail Trade Business District. Staff feels this permitted use does not belong in the B-RT district. Now would be the opportune time to move this use to the B-6 General Business District.

Chairman Lewis commented that by making these recommended changes, we would be affecting people's properties. The ABC store in the Ketner Center would become nonconforming. He felt Glenn Ketner should be notified as to what the board will be considering at the next meeting. He also asked that staff notify any owner of a billiard or pool hall and let them know the same thing. Leigh Ann Loeblein moved to delay action on staff's proposed changes until a later time. The motion was seconded by DeeDee Wright with all members voting AYE.

There being no further business to come before the Board, the meeting was adjourned.

Chairman

Secretary